

Application No. 09/416,192

of the Rivonelli patent disclose automatic evaluation and updating of a patient's treatment protocol. Applicants believe that there has been a misunderstanding with respect to this aspect of Applicants' claimed invention. Applicants respectfully request reconsideration of the rejection based on the following comments.

Applicants' claim recites an analysis interaction algorithm that "automatically evaluates and updates a patient's treatment protocol." See the text of pending claim 11. The Examiner referred to the claims of the Rivonelli patent for disclosing this feature. However, Applicants have been unable to find this feature in the claims or any place else in the Rivonelli patent. With respect to the claims of the Rivonelli patent, the claims refer to a patient and a "user," who is a physician. The claims include a step of receiving information from the user and evaluating a user response. The meaning of a user can be found throughout the patent including in the figure on the cover page. Thus, all processes in the Rivonelli patent are based on intervention by a physician and do not involve any automatic responses.

However, Applicants further assert that the Rivonelli patent also does not teach or suggest updating a patient's treatment protocol even with physician interaction. As noted throughout and, specifically, in the title, the Rivonelli patent is directed to a testing system. The Rivonelli patent does not teach or suggest a treatment protocol as disclosed and claimed by Applicants. As described, for example, in the Background and at column 39, line 45 to column 50, line 47, the Rivonelli patent describes a simulation designed to evaluate the performance of a physician when presented with a simulated medical history and examination parameters. The methods in the Rivonelli patent do not relate to patient treatment protocols with respect to either evaluating a real treatment protocol or updating a treatment protocol.

Since the Rivonelli patent does not teach evaluating or updating a patient's treatment protocol, the Rivonelli patent does not anticipate Applicants' claimed invention.

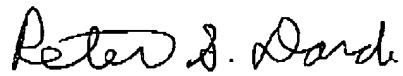
Application No. 09/416,192

Applicants respectfully request withdrawal of the rejection of claims 11-17 and 25-37 under 35 U.S.C. §102(e) as being anticipated by the Rivonelli patent.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



Peter S. Dardi, Ph.D.  
Registration No. 39,650

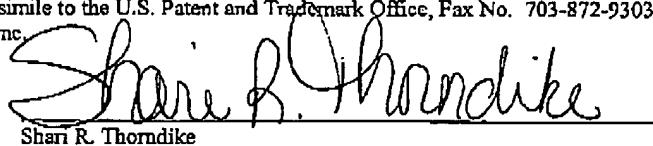
Customer No. 24113  
Patterson, Thuente, Skaar & Christensen, P.A.  
4800 IDS Center  
80 South 8th Street  
Minneapolis, Minnesota 55402-2100  
Telephone: (612) 349-5746

*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office, Fax No. 703-872-9303 on the date shown below thereby constituting filing of same.

January 2, 2003  
Date

  
Shari R. Thorndike